

CHARLES A. ELDERING
JOB# 4411

04-28-04

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

EXPANSE NETWORKS, INC. :
Plaintiff :
: C.A. NO. 02-CV-2857
VS. :
:
CATALINA MARKETING CORP. :
Defendant :

VIDEOTAPED DEPOSITION OF
CHARLES A. ELDERING
APRIL 28, 2004

Called as a witness by the Defendant, taken before
Debbie Leonard, CSR, RMR, CRR, a Certified Shorthand
Reporter in and for the State of Texas, reported by
machine shorthand, on the 28th day of April, 2004, from
8:43 a.m. to 5:09 p.m., at the offices of Goldstein &
Faucett, 1177 West Loop South, Suite 400, Houston,

Texas, pursuant to the Federal Rules of Civil Procedure
and the provisions stated on the record or attached
hereto.

CHARLES A. ELDERING
JOB# 4411

04-28-04

Page 171

1 but the rest looks like copies out of my notebook, yes.

2 Q. Okay. Is this the only notebook that you
3 have maintained since you started Expanse?

4 A. No. I have -- I have, I think, four bound
5 notebooks that cover my -- the time period from 1998 to
6 the present. I actually don't use them very frequently
7 now, but I have four notebooks.

8 Q. Okay. I notice this one seems to end just
9 before the filing of the parent application of which
10 the '348 is a continuation in part. And if you'll look
11 at the last few pages, it appears to be -- there's a --
12 for example, the next to the last page, which is the
13 last one with any handwriting on it, at the bottom it
14 says, "30 November," and has a time. Do you see that?

15 A. Yes.

16 Q. And if you'll look at the face of Exhibit 2,
17 the '348 patent, it says that it's a continuation in
18 part of an application filed on December the 3rd, '98,
19 correct?

20 A. Yes, that is correct.

21 Q. And so these notes end just before the filing
22 of the parent of the '348, correct?

23 A. That could be, yes.

24 Q. Did you keep one after the date of November
25 the 30th, 1998?

CHARLES A. ELDERING
JOB# 4411

04-28-04

Page 172

1 A. Yes, I have a notebook after that date.

2 Q. Do you know where it is? '

3 A. Yes, I do.

4 Q. Where is it?

5 A. It's in my office.

6 Q. The office down the hall here or the office
7 in Philadelphia?

8 A. No, it's -- excuse me. It's in my office in
9 Pipersville, PA.

10 Q. Have you provided it to your counsel?

11 A. I don't think I've copied that because, as I
12 recall, I looked through that and it has no relevant
13 material, but I would be glad to look through it again
14 and copy it and provide it to my counsel. But again, I
15 have inspected it. I think it has no relevant
16 information.

17 MR. STORM: I think we would like a copy
18 anyway.

19 MS. GOLDSTEIN: I do not have it to
20 answer your question. I wasn't sure if he provided it.

21 Q. (By Mr. Storm) Okay. Other than the
22 information that's contained in Exhibit 25, do you have
23 any written records which would establish when the
24 invention disclosed in the '348 patent was made?

25 A. I believe we provided some invention